

HOUSE BILL 434

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 15, Part 9; Title 36 and Title 39, Chapter 13, relative to orders of protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-609(b), is amended by designating the existing language as subdivision (1) and adding the following as a new subdivision:

(2) Notwithstanding § 16-15-902, an ex parte order of protection may be served within one (1) year of issuance.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 3, Part 6, is amended by adding the following as a new section:

(a)

(1) Notwithstanding § 36-3-608, a victim of a felony offense under title 39, chapter 13, part 1, 2, 3, or 5 may file a petition for a lifetime order of protection against the offender who was convicted of the offense.

(2) As used in this section, "victim" has the meaning given in § 40-38-203.

(b) A petition filed by an unemancipated person under eighteen (18) years of age must be signed by one (1) of that person's parents or by that person's guardian. The petition may also be signed by a caseworker at a not-for-profit organization that receives funds pursuant to title 71, chapter 6, part 2 for family violence and child abuse prevention and shelters; provided, however, that a petition signed by a caseworker may not be filed against the unemancipated minor's parent or legal guardian. In such case,

unless the court finds that the action would create a threat of serious harm to the minor, a copy of the petition and notice of hearing shall also be served on the parents of the minor child, or if the parents are not living together and jointly caring for the child, upon the primary residential parent. In cases before the juvenile court where the department of children's services is a party or where a guardian ad litem has been appointed for the child by the juvenile court, the petition may be filed on behalf of the unemancipated person by the department or the guardian ad litem.

(c) Venue for a petition for an order of protection under this section, and all other matters relating to orders of protection, is in the county where the respondent resides or the county in which the offense occurred. If the respondent is not a resident of this state, the petition may be filed in the county where the petitioner resides.

(d) The court shall cause a copy of the petition and notice of the date set for the hearing on such petition to be served upon the respondent at least five (5) days prior to the hearing. The notice must advise the respondent that the respondent may be represented by counsel. In every case, unless the court finds that the action would create a threat of serious harm to the minor, when a petitioner is under eighteen (18) years of age, a copy of the petition, and notice of hearing must also be served on the parents of the minor child, or in the event that the parents are not living together and jointly caring for the child, upon the primary residential parent, pursuant to the requirements of this section.

(e) At the hearing on the petition, the court shall, if the petitioner has proved the respondent was convicted of an offense listed in subsection (a) and that the petitioner was the victim of the offense, issue a lifetime order of protection that remains in effect until the death of the petitioner or the respondent. If the petitioner has not provided proof

that respondent was convicted of such an offense and that the petitioner was the victim of the offense, the court shall dismiss the petition.

(f) An order of protection granted under this section must:

(1) Prohibit the respondent from coming about the petitioner for any purpose, from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(2) Include a statement of the maximum penalty that may be imposed pursuant to § 36-3-610 for violating such order; and

(3) Be valid and enforceable in any county of this state.

(g) A lifetime order of protection is effective and must be served as provided in § 36-3-609.

(h)

(1) Upon violation of a lifetime order of protection, the court may hold the defendant in civil or criminal contempt and, following a contempt hearing as provided in § 36-3-612, punish the defendant in accordance with the law. A judge of the general sessions court has the same power as a court of record to punish the defendant for contempt when exercising jurisdiction pursuant to this part or when exercising concurrent jurisdiction with a court of record. A judge of the general sessions court who is not a licensed attorney shall appoint an attorney referee to hear charges of criminal contempt.

(2) In addition to the authorized punishments for contempt of court, the judge may assess any person who violates a lifetime order of protection a civil penalty of fifty dollars (\$50.00). The judge may further order that any support payment made pursuant to an order of protection or a court-approved consent agreement be made under an income assignment to the clerk of court. Upon

collecting the civil penalty imposed by this subdivision (h)(2), the clerk shall, on a monthly basis, send the money to the state treasurer who shall deposit it in the domestic violence community education fund created by § 36-3-616.

(i) An arrest for violation of a lifetime order of protection issued pursuant to this section may be with or without warrant. A law enforcement officer shall arrest the respondent without a warrant if:

(1) The officer has proper jurisdiction over the area in which the violation occurred;

(2) The officer has reasonable cause to believe the respondent has violated or is in violation of a lifetime order for protection; and

(3) The officer has verified whether a lifetime order of protection is in effect against the respondent. If necessary, the officer may verify the existence of a lifetime order for protection by telephone or radio communication with the appropriate law enforcement agency.

SECTION 3. Tennessee Code Annotated, Section 36-3-617, is amended by deleting the language "domestic abuse victim, stalking victim or sexual assault victim" wherever it appears and substituting instead the language "domestic abuse victim, stalking victim, sexual assault victim, or victim of a felony offense under title 39, chapter 13, part 1, 2, 3, or 5".

SECTION 4. Tennessee Code Annotated, Section 36-3-617(a)(2)(B), is amended by deleting the language "domestic abuse, stalking, or sexual assault" and substituting instead "domestic abuse, stalking, sexual assault, or felony offense under title 39, chapter 13, part 1, 2, 3, or 5".

SECTION 5. Tennessee Code Annotated, Section 39-13-113(f)(3), is amended by deleting the subdivision and substituting:

(3) The court made specific findings of fact in the order of protection or restraining order that the person committed domestic abuse, sexual assault, or stalking as defined in § 36-3-601 or was convicted of a felony offense under chapter 13, part 1, 2, 3, or 5 of this title.

SECTION 6. This act takes effect July 1, 2021, the public welfare requiring it.